

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

STATE OF WASHINGTON,

C17-5806RJB

Plaintiff,

v.

THE GEO GROUP, INC., a Florida
corporation,

Defendant.

UGOCHUKWU GOODLUCK
NWAUZOR, individually and on
behalf of all those similarly situated,
and FERNANDO AGUIRRE-
URBINA, individually,

C17-5769RJB

Plaintiffs,

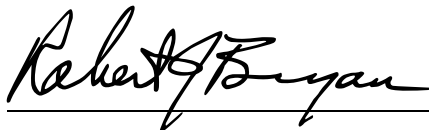
COURT'S CASE INTRODUCTION
TO ALL JURORS FOR SECOND TRIAL

v.

THE GEO GROUP, INC., a Florida
corporation,

Defendant

Dated this 5th day of October, 2021.



ROBERT J. BRYAN
United States District Judge

COURT'S CASE INTRODUCTION TO ALL JURORS

1 Ladies and Gentlemen:

2 We are conducting this part of a civil trial remotely, on the Zoom platform, because of
3 the pandemic. This means that jurors will participate by computer from home or your private
4 space or office. The obligations of jurors will be the same as if you were in the courtroom. You
5 must be able to give these cases your full attention from 9:00 a.m. until discharged. Also, you
6 must follow the orders and instructions of the Judge and court staff.

7 The first order of business today is for me to tell you a bit about the cases we are going to
8 try and to introduce the participants in the trial.

9 We have joined two cases together for the first phase of this trial, because the two cases
10 share common issues. After those issues are resolved, the same jury may be called upon to hear
11 a second phase of the case.

12 The Plaintiff in the first case is the State of Washington. The State here is represented by
13 Assistant Attorneys General Marsha Chien, Andrea Brenneke and Lane Polozola

14 The Plaintiffs in the second case are Ugochukwu Goodluck Nwauzor and Fernando
15 Aguirre-Urbina. Their lawyers are Jamal Whitehead and Adam Berger. These Plaintiffs are here
16 on their own behalf, and Mr. Nwauzor as the representative of a class of others. Their claims are
17 described as a class action. A class action is a lawsuit that has been brought by one or more
18 plaintiffs on behalf of a larger group of people who have similar legal claims. All of these
19 people together are called a “class.” In a class action, the claims of many individuals can be
20 resolved at the same time instead of requiring each member to sue separately over the same
21 issue. Because of the large number of possible claims that are in the case, not everyone in the
22 class will testify. The evidence at trial applies to all class members. All members of the class
23 will be bound by the result of this trial.

1 In this second case, the Plaintiffs' class consists of the following:

2 All civil immigration detainees who participated in the Voluntary Work Program at the
3 Northwest Detention Center at any time between September 26, 2014, and the date of
final judgment in this matter.

4 The Defendant in both cases is The GEO Group, Inc., a corporation also known as
5 "GEO." GEO's lawyers are Jacqueline Arango, Wayne Calabrese, Adrienne Scheffey and Al
6 Roundtree.

7 The parties have agreed on certain facts that will give you the background of the issues.
8 The following facts are admitted by the parties:

9 1. GEO owns and operates the Northwest ICE Processing Center ("NWIPC"), which
10 was known from 2005 to 2019 as the Northwest Detention Center ("NWDC"). It is located at 1623
11 East J Street, Tacoma, Washington.

12 2. Since October of 2005, GEO has contracted with U.S. Customs and Immigration
13 Enforcement ("ICE") within the U.S. Department of Homeland Security ("DHS") to provide civil
14 immigration detention management services at the Center for adults held in administrative custody
15 as they await immigration status review by ICE and the federal judiciary.

16 3. GEO has expanded the capacity of the Center twice. The Center initially had the
17 capacity to house between 500 to 800 individuals. In July 2006, GEO expanded the Center to house
18 up to 1,000 individuals. In October 2009, GEO expanded the Center a second time so that it now
19 has the capacity to house up to 1,575 individuals.

20 4. Pursuant to the Center contract between GEO and ICE, GEO provides detention
21 services to ICE including, but not limited to: the building, management and administration,
22 security, clean and vermin free facilities, food service with three nutritious meals per day, clean
23 uniforms and bedding, and barbershop/grooming services.

1 5. Pursuant to the Center contract between GEO and ICE, GEO is required to
2 “perform in accordance with” specific “statutory, regulatory, policy, and operational” constraints,
3 including the ICE/DHS Performance Based National Detention Standards as well as “all applicable
4 federal, state, and local laws.”

5 6. The Performance Based National Detention Standards, and its predecessor the
6 National Detention Standards, is a set of standards developed by ICE to ensure that all entities it
7 contracts with provide safe and secure facilities.

8 7. Performance Based National Detention Standard 5.8 requires that GEO offer
9 detained persons an opportunity to work in a Voluntary Work Program.

10 8. Since October of 2005, GEO has offered detainees positions in its Voluntary Work
11 Program.

12 9. On any given day, there could be as many as 470 positions for detainees in the
13 Voluntary Work Program at the Center.

14 10. While detained, detainees do not have the opportunity to leave the Center or work
15 outside of the Center, unless explicitly authorized by ICE.

16 11. GEO does not review whether detainee-workers have work authorization when
17 reviewing their requests/applications to positions in the Voluntary Work Program.

18 12. GEO maintains job descriptions for Voluntary Work Program positions.

19 13. Positions that are available to detainees in the Voluntary Work Program are varied,
20 including in the kitchen, in the laundry room, cleaning of common areas, and cutting hair in the
21 barbershop.

22 14. GEO provides detainees in Voluntary Work Program positions with all equipment,
23 materials, supplies, uniforms, and personal protective equipment necessary to their Voluntary
24 Work Program position.

1 15. GEO has the option to pay more than \$1/day to detainee-workers for work
2 performed in the VWP at the Center.

3 16. GEO has never paid detainees in the Voluntary Work Program the state minimum
4 wage.

5 17. GEO has paid and continues to pay detainees in VWP positions \$1 per day.

6 18. The Performance Based National Detention Standard 5.8 states: “Detainees shall
7 receive monetary compensation for work completed in accordance with the facility’s standard
8 policy. The compensation is at least \$1.00 (USD) per day.”

9 19. GEO employs non-detainee employees, including two or three janitors, at the
10 Center.

11 20. Washington’s hourly minimum wage from 2005 to the present year has gone from
12 \$7.35 on January 1, 2005 to \$13.69 on January 1, 2021.

13 21. The Minimum Wage Act applies to all employment relationships that are not
14 covered by a statutory exemption regardless of the profitability of the employer.

15 22. Mr. Nwauzor is a citizen of Nigeria, and was granted asylum in the United States
16 in January 2017.

17 23. Mr. Nwauzor was held at the Center as a civil immigration detainee from
18 approximately June 2016 until January 2017.

19 24. Mr. Nwauzor held a Voluntary Work Program position during his detention at the
20 Center.

21 25. Mr. Nwauzor obtained lawful permanent residence status, commonly known as a
22 “green card,” in July 2018.

23 All parties agree that the first issues to be tried are whether GEO is required to pay the
24 hourly minimum wage to detainees in the Voluntary Work Program at the Center under the State

1 of Washington's Minimum Wage Act; and does intergovernmental immunity render GEO
2 immune from liability under the Minimum Wage Act?

3 The Plaintiff State of Washington brings the first case as an enforcement action, to
4 require GEO to adhere to Washington State's Minimum Wage Act. In the second case, the class
5 Plaintiffs' claim is to recover money they claim is due, under the Minimum Wage Act, for work
6 performed as part of the Voluntary Work Program.

7 Defendant denies the Plaintiffs' claims and affirmatively claims that GEO is immune
8 from Plaintiffs' claims under the law.

9 Plaintiffs deny Defendant's claims.

10 The parties have the burden of proving any claim or affirmative defense by a
11 preponderance of the evidence, which means you must be persuaded by the evidence that the
12 claim or affirmative defense is more probably true than not true.

13 GEO has been the subject of news reports on other subjects lately that are not directly
14 relevant to these cases. These cases are not about whether the government's contracting with
15 private entities to operate detention facilities is a good or bad policy, nor is it about specific
16 events at the Center, unrelated to the issue of minimum wage and the Voluntary Work Program.
17 These cases are also not about United States' immigration policy or border issues.

18 An important part of these cases is jury selection. In order that the cases be tried before
19 an impartial jury, the lawyers and I will ask you questions, not to embarrass you or to pry into
20 your private affairs, but to determine if you are unbiased and without preconceived ideas which
21 might affect the cases. You should not withhold information in order to be seated on this
22 particular jury. You should be straightforward in your answers rather than answering in the way
23 you feel the lawyers or I expect you to answer. Your answers will be under oath. It is presumed
24 that when a jury has been selected and accepted by both sides, each of you will keep an open

COURT'S CASE INTRODUCTION TO ALL JURORS

1 mind until the cases are finally submitted, will accept the instructions of the Court, and will base
2 any decision upon the law and the facts uninfluenced by any other considerations. The purpose
3 of the questions is to determine if you have that frame of mind.

4 The lawyers have the right and duty to challenge any jurors for cause. They may also
5 challenge a certain number of jurors without giving any reason as a guarantee to both parties that
6 they may remove some jurors if they wish. You should not take offense if you are challenged,
7 because the challenges are not exercised as a personal reflection on you.

8 A number of witnesses may testify in these cases. I have asked counsel to list the
9 witnesses that are local, and I will read the list to you. Make a mental or written note of anyone
10 on the list of witnesses that you know, or know of, and we will ask you about that in the
11 questioning. Possible witnesses are: _____

12 We are going to divide you up into groups of _____ for inquiry into
13 whether each of you can serve as fair and impartial jurors in these cases.

14 I ask each of you for your patience. We will work as fast as we can.
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